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In re Application of	:	
HUESCA, Mario et al.	:	
Application No.: 10/525,690	:	DECISION ON
PCT No.: PCT/CA03/01229	:	
Int. Filing Date: 19 August 2003	:	PETITION
Priority Date: 19 August 2002	:	
Attorney Docket No.: 16526US01	:	UNDER 37 CFR 1.47(a)
For: 2, 4, 5 – TRISUBSTITUTED ... ANTI-	:	
MICROBIAL AGENTS	:	

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47," filed in the United States Patent and Trademark Office (USPTO) on 07 February 2006.

BACKGROUND

On 19 August 2003, applicants filed international application PCT/CA03/01229, claiming a priority date of 19 August 2002. A copy of the international application was transmitted to the Office on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 February 2005 (19 February 2005 was a Saturday and 21 February 2005 was a holiday).

On 22 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 07 July 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 07 February 2006, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a supporting declaration. The petition included the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3), and (4) have been satisfied. The \$200 petition fee has been paid. Applicants list Raed Al-Qawasmeh's address as 15 Vicora Linkway; North York, Ontario M3C 1A8; Canada. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants claim that they have been unable to locate the inventor after a diligent effort, but the basis of this assertion is unclear as the package sent to his last known address was not returned as undeliverable. It is not clear that this package included a complete copy of the application papers, including the declaration, as is required. Copies of documentary evidence and a detailed statement from someone with first hand knowledge of the contacts is required. The statement of Dianne Singer does not set out the times and dates of her attempted contacts, printouts of her database searches or a detailed description of what was sent to the inventor.

Further, though applicants know the address of the non-signing inventor's attorney, applicants have not sent a complete copy of the application papers to the inventor's counsel. MPEP 409.03(d).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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